

CHAPTER 22 ORDINANCE 2017-02
ORDINANCE TOWN OF BRIGHTON FIREWORKS REGULATION

Purpose of Ordinance: The purpose of this ordinance is to protect the health, welfare and property of Brighton residents and property owners and to ensure as much as possible all fireworks are used safely and in accordance with Wisconsin Statute (167.10).

Wisconsin law requires certain users of fireworks to have a permit from the Town of Brighton before usage. Town of Brighton officials must ensure that all fireworks are operated safely and property and persons in Brighton households and neighborhoods are protected from damage and injury. Also, the Town of Brighton's liability must be minimized and protected. Permits issued to applicants living in subdivisions/residential clusters are more expensive to administer requiring contact with neighbors.

- A. Application Deadline Brighton residents desiring to obtain a fireworks permit must file the application at least four (4) business days, Monday through Friday before the actual fireworks use would occur. The reason for the timeline is because of the necessity to notify the Fire Department(s) providing services to the Town and in some cases the Kenosha County Sheriff's Department to view the site where the fireworks would be exploded.
- B. When the activity takes place in a subdivision or cluster development, it is a requirement to contact and obtain feedback from neighbors who face potential damage or injury from the fireworks usage. In terms of implementation, those who would like to explode fireworks on or about July 4th need to obtain the permit by late June to meet this requirement.
- C. Cost of Permit. A two-tier fee structure exists for obtaining a fireworks permit in the Town of Brighton. Where the fireworks are exploded determines the cost to the Town of Brighton to administer this ordinance. Cluster developments are charged a higher fee because of the need to contact neighbors to explore any concerns they may have. In rural areas where there is not an eminent safety concern a lower fee is assessed. Accordingly the current fee schedule is:

Subdivision/cluster development - \$50.00

Rural areas - \$25.00

This fee is non-refundable. It must be paid before the permit is issued.

D. Definition In this section, “fireworks” means anything manufactured, processed or packaged for exploding, emitting sparks or combustion that does not have another common use, but does not include any of the following:

1. Fuel or a lubricant.
2. A firearm cartridge or shotgun shell.
3. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
4. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
5. A cap containing not more than one-quarter ($\frac{1}{4}$) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
6. A toy snake that contains no mercury.
7. A model rocket engine.
8. Tobacco and a tobacco product.
9. A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch that is designed to produce audible or visible effects or to produce audible and visible effects.
10. A device designed to spray out paper confetti or streamers that contains less than one-quarter ($\frac{1}{4}$) grain of explosive mixture.
11. A fuseless device designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter ($\frac{1}{4}$) grain of explosive mixture.
12. A device that is designed primarily to burn pyrotechnic smoke producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
13. A cylindrical fountain that consists of one or more tubes and that is classified by the Federal Department of Transportation as a Division 1.4 Explosive, as defined in 49CFR 173.50.
14. A cone fountain that is classified by the Federal Department of Transportation as a Division 1.4 Explosive, as defined in 49CFR 173.50.

E. Sale No person may sell or possess with intent to sell fireworks, except:

1. To a person holding a permit under the ordinance.
2. To a municipality; or
3. For a purpose specified under Section C above.

F. Use 1. Permit Required. No person may possess or use fireworks without a user's permit from either the Town Chairperson or Town Clerk or Town Deputy Clerk. No person may use fireworks or a device while attending a fireworks display for which a permit has been issued if the display is open to the general public.

2. Who May Obtain Permit. A permit may be issued only to the following:

- a. A public authority.
- b. A fair association.
- c. A civic organization.
- d. Any individual or group of individuals.
- e. An agricultural producer for the protection of crops from predatory birds or animals.

3. Permit Exceptions.

- a. The Town, except that Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) business days in advance.
- b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations.
- c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
- d. The possession or use of explosive or combustible materials in any manufacturing process.
- e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

4. Crop Protection Signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

5. Liability Insurance. The Town Chairperson or Town Clerk or Town Deputy Clerk issuing a permit shall require a policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The policy shall be taken in the name of the town, if possible, and any person injured thereby may bring an action on the policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of insurer to all persons shall not exceed the amount of the policy. The policy must be for a minimum of \$1,000,000 together with a copy of the permit, shall be filed in the office of the Town Clerk.

6. Required Information for Permit. A permit shall specify all of the following:

- a. The name and address of the permit holder.
- b. The date on and after which fireworks may be purchased.
- c. The kind and quantity of fireworks that may be purchased.
- d. The date and location of permitted use.
- e. Other special conditions prescribed by ordinance.

7. Copy of Permit. A copy of a permit shall be given to the Fire Chief(s) and Kenosha County Sheriff's Department at least two (2) business days before the authorized use.

8. Minors Prohibited. A permit may not be issued to a minor. Minors are under 18 years of age.

9. Special Conditions. Permit issued pursuant to paragraph above are conditioned on:

- a. The Fireworks not being detonated if weather conditions (e.g. wind, rain dryness of surrounding vegetation due to prolonged lack of precipitation, etc.) do not safely allow their detonation.
- b. No Fireworks being detonated after 11:00 p.m.
- c. The Fireworks being detonated at least 300 feet from the nearest spectator, public road or building and at least 50 feet from above ground power lines, cables, trees or other overhead objects. At a minimum, neighbors/households within that distance will be surveyed for reaction.

- d. The Fireworks being directed when detonated in as vertical a manner as safely possible.
- e. Adequate safety protections and firefighting equipment being in place at the permitted site.
- f. A certificate of liability insurance issued by an insurance company authorized to write such policies in Wisconsin in the amount of at least One Million Dollars for bodily injury/property damage that may arise by reason of use or discharge of fireworks under Permit, with the Town of Brighton named, if possible, as an additional insured under such policy.

G. Storage and Handling

- 1. Fire Extinguishers Required. No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
- 2. Smoking Prohibited. No person may smoke where fireworks are stored or handled.
- 3. Fire Chief(s) to be Notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
- 4. Storage Distance. No wholesaler, dealer or jobber may store fireworks within fifty (50) feet of a dwelling.
- 5. Restrictions on Storage. No person may store fireworks within fifty (50) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

H. Parental Liability.

A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

I. Appeal to the Town Board

Any applicant for a Fireworks Permit is denied may appeal that denial to the Brighton Board of Supervisors

J. Enforcement

1. Injunction. The Town may petition the Kenosha County Circuit Court for an order enjoining violation of this Ordinance.

2. Penalties. A person who violates this Ordinance shall forfeit not more than \$1,000.00. A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.00. This Ordinance shall take effect upon passage and publication as required by law.

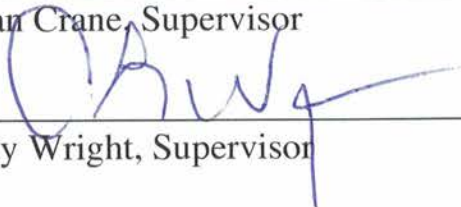
K. Effective Date. This Ordinance shall take effect from and after its adoption by the Town Board and upon posting or publication thereof as provided by the Statutes of the State of Wisconsin. Adopted the

8th day of May, 2017



John B. Kiel, Chairman

Susan Crane, Supervisor



Andy Wright, Supervisor